



**THE POLICE COMMISSIONER
CITY OF NEW YORK**

July 2, 2012

Honorable Peter F. Vallone, Jr.
Chairman, Public Safety Committee
New York City Council
22-45 31st Street, 2nd Floor
Astoria, New York 11105

Dear Chairman Vallone:

I am writing in response to your correspondence to Mayor Bloomberg regarding your proposal to establish an interagency task force to address traffic safety issues and your correspondence requesting additional information regarding Police Department vehicle accident response procedures and traffic enforcement.

First, while I understand the concerns you have expressed regarding traffic safety matters, I do not believe the establishment of an interagency traffic safety task force would be either beneficial or necessary. As you indicate in your letter, our City streets have never been safer, and the traffic fatality rate has declined by more than 40 percent since 2001. The Police Department already has close and well-established relationships with the other governmental agencies you propose for inclusion in this working group. Police Department executives work extensively with their counterparts in the Department of Transportation, the Department of Health, the Office of the Medical Examiner and with each District Attorney on a continual basis. I respectfully suggest that the task force you propose would create an additional and unnecessary drain on the very resources which have helped to improve the City's traffic safety. However, the accident investigation process is being examined and modifications are anticipated.

As you may remember, the Police Department is already co-located with the New York City Department of Transportation at the Traffic Management Center in Queens, the nerve center for monitoring of traffic conditions through the City's network of closed circuit television cameras. This partnership provides an opportunity to observe, in real time, locations where police attention may be needed, and to work together to address both short-term and long-term needs to keep traffic flowing safely in the City. The Traffic Management Center is also responsible for collecting and disseminating vehicle accident statistics.

In addition, representatives of both the City Department of Transportation and the New York State Department of Transportation, the Taxi and Limousine Commission, the TBTA, New York City Transit, and MTA Bus Operations participate in our weekly TrafficStat meetings, where all of the Department's strategies and initiatives are coordinated and where the traffic conditions in a particular area of the City are discussed in depth. It is also important to note that TrafficStat provides a framework for these outside agency representatives to help formulate recommendations, implement suggestions, and institute changes as well.

Regarding the goal of identifying potential cost savings, I believe that the Police Department and other City agencies are already working diligently as possible to bring about the lowest possible number of motor vehicle accidents. While the generation of revenue does not factor into the decision-making process for any enforcement initiative, I assure you that we will continue to conduct aggressive traffic safety campaigns throughout the City focused on hazardous traffic violations. In 2011, the Department issued over one million summonses for moving violations, with more than half of them falling into four categories: using a cellphone, disobeying a sign, failing to wear a safety belt, and speeding.

With respect to the additional information you have requested, supplementing the testimony provided at the City Council oversight hearing of February 15, 2012, the Police Department is in full compliance with the requirements set forth in Section 603-a of New York State Vehicle and Traffic Law (VTL). For every vehicle accident that is reported to this agency, police officers are required to conduct an investigation in order to ascertain the information needed to prepare a police accident report (New York State Department of Motor Vehicles Form MV104AN). This form contains information regarding the facts and circumstances of the accident, the types of vehicles involved, the names of all persons involved, whether any provision of the VTL was violated, and the cause of the accident. In short, this form contains all the information required by Section 603-a of the VTL. To be clear, the in-depth investigations that are conducted by Accident Investigation Squad (AIS) personnel at fatal motor vehicle accident scenes far exceed these investigative requirements and should not be construed as the minimum threshold regarding these requirements.

As a matter of policy, the Accident Investigation Squad has responded to accidents when there has been a fatality or when there is serious physical injury and the victim is considered likely to die. The exhaustive on-scene examination and the extensive follow-up investigation conducted by AIS personnel is necessary and appropriate in these types of cases. In less serious circumstances, the response and investigation by precinct patrol officers is sufficient to document the occurrence and assess potential criminal liability. As I noted above, we are currently studying possible policy modifications regarding the work of AIS personnel.

There is no current Vehicle and Traffic Law requirement that photographs must be taken at the scene of motor vehicle accidents. Furthermore, it is important to note that there is no suspicion of criminality in the vast majority of motor vehicle accidents that occur in New York City. With approximately 200,000 vehicle accidents taking place each year, the logistics of requiring responding police personnel to take, catalogue and safeguard photographs for each of these incidents would lengthen the amount of time needed to process accident scenes and would likely result in diverting our limited resources from responding to other emergencies and from addressing crime and quality of life conditions.

Pursuant to Department policy, police officers are not permitted to issue summonses for traffic infractions not committed in their presence, notwithstanding the fact that they may be legally authorized to do so, because of the difficulty inherent in establishing the credibility of a summons issued for a traffic infraction which was not witnessed by the officer. AIS investigators are excepted from this rule because their extensive level of expertise enables them to demonstrate that a traffic infraction has occurred outside of their presence, by examining evidence obtained during an on-scene investigation. In every case involving a pedestrian or bicyclist, regardless of the level of injuries sustained, if any "operational factor" (speed, fail to

yield, etc.) has been identified, Highway District personnel will issue an additional summons for VTL Section 1146 – failure to exercise due care.

Department policy is to issue summonses for traffic infractions, including those issued under VTL Section 1146, as moving violations rather than Criminal Court summonses, because traffic infractions as such are generally treated much more seriously by Department of Motor Vehicles Administrative Law Judges than by Criminal Court judges. However, moving violation summonses for infractions not personally witnessed are routinely dismissed by Department of Motor Vehicles Administrative Law Judges based on their belief that officers may only issue summonses for violations committed in their presence. It should be noted that these summonses are not being dismissed for a lack of prima facie evidence, and that it is doubtful that the summonses would fare better in Criminal Court. We suggest that a legislative remedy such as one proposed in Assembly Bill No. 9219/Senate Bill No. 6416, as discussed at the hearing of February 15, 2012, would assist in this regard.

There are generally one or two radar guns assigned to each precinct command. There are allowances made for commands with heavily traveled corridors that require additional speed enforcement due to community complaints or accident information that lead to the conclusion that excessive speed is a factor. As shown in attachment A, which lists the number of radar guns assigned to each precinct, certain commands have an additional number of devices.

In response to your other requests for additional data, Attachment B provides the number of traffic-related arrests that occurred in New York City in 2010 and 2011, disaggregated by both precinct and borough. Attachment C provides the number of cases involving vehicles held for potential forfeiture, by type of crime, opened by the Department's Civil Enforcement Unit in 2010 and 2011. I would like to note that the decline in potential forfeiture cases is the result of a changeover to a new computerized property intake system. This system has given Civil Enforcement Unit personnel the ability to electronically review the particular circumstances related to each vehicle held for potential forfeiture in connection with an arrest. As a result, there is no longer a need to open potential cases which do not meet the criteria for a successful forfeiture proceeding. Due to this change, while fewer forfeiture case files are being opened, every potential case is still being reviewed.

In each case, Civil Enforcement Unit personnel conduct an analysis of whether or not the property can be proven under existing New York State legal standards to be the instrumentality or proceeds of a misdemeanor or felony. If the owner was not the criminal defendant, we also determine whether or not the owner can be proven to have knowledge (actual or constructive) that the criminal defendant was going to use the property in the crime. This is an element required to be proven to be successful in a forfeiture action. Once we have made these determinations and believe a forfeiture action can be successful, we allocate our resources to open those cases which the Department has prioritized based upon crime statistics and conditions at any given time.

Your request for the total number of crimes charged to people in situations where a victim is not likely to die as a result of a traffic accident, disaggregated by charge, cannot be compiled from Police Department databases in the manner you requested. Therefore, this information is not available.

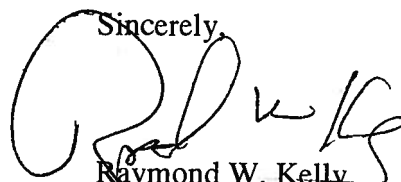
Attachment D provides the overall number, including the location, of each incident involving a truck striking an overpass in 2009, 2010 and 2011. Criminal charges associated with these incidents cannot be compiled from Police Department databases, and therefore this information is not available. Regarding whether the City typically brings civil lawsuits against truck owners to recover damages, the New York City Law Department is responsible for initiating any civil actions that may be taken against truck owners to cover damage to City property caused by negligent drivers and my staff will inquire on your behalf as to whether such actions are typically brought.

Attachment E lists the number of taxi cab accidents that occurred in New York City during the 2009, 2010 and 2011 Calendar Years. Please note that this data pertains only to incidents involving taxi cabs. We began tracking all vehicle accidents by specific vehicle type starting in August 2011. Therefore, the number of accidents specifically involving livery vehicles is only available from that date forward and not for the time periods you requested.

Regarding the documentation of bicycle accidents, the Police Department did not create a new form for officers to fill out when responding to accidents involving only bicyclists or bicyclists and pedestrian(s). Instead, a change in procedure was instituted that directs officers to document injuries resulting from these types of incidents on a standard Police Accident Report (MV104AN). Previously, this information was recorded on an Aided Report Worksheet, which is a Police Department form utilized to document incidents where an individual required medical assistance. By utilizing the more detailed Police Accident Report, our ability to gather various types of statistical data regarding these incidents will be significantly enhanced.

Finally, I would like to assure you that we remain fully available to members of the City Council for their input regarding traffic safety matters, and will continue to focus significant operational and investigative resources on making New York City's roadways as safe as possible. As always, I appreciate your support of the New York City Police Department.

Sincerely,



Raymond W. Kelly
Police Commissioner



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CITY OF NEW YORK

July 2, 2012

Honorable James Vacca
Chairman, Transportation Committee
New York City Council
3040 East Tremont Avenue, Room 104
Bronx, New York 10461

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Website: <http://nyc.gov/nypd>

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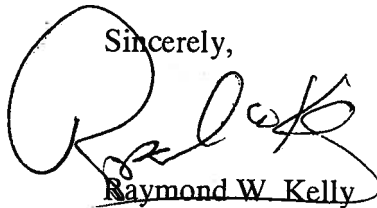
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